

24/7 SOBRIETY PROGRAM EXPANSION

2021 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill expands the 24-7 sobriety program statewide.

Highlighted Provisions:

This bill:

- ▶ removes language limiting the 24-7 sobriety program to a pilot program;
- ▶ allows an individual participating in a drug court to avoid suspension of the individual's driver license;
- ▶ allows expansion of the program statewide; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-509, as last amended by Laws of Utah 2020, Chapter 177

41-6a-515.5, as last amended by Laws of Utah 2018, Chapter 135

41-6a-517, as last amended by Laws of Utah 2020, Chapter 12

53-3-220, as last amended by Laws of Utah 2020, Chapter 177

53-3-223, as last amended by Laws of Utah 2020, Chapter 177

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-6a-509** is amended to read:

41-6a-509. Driver license suspension or revocation for a driving under the influence violation.

(1) The Driver License Division shall, if the person is 21 years of age or older at the time of arrest:

(a) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502; or

(b) revoke for a period of two years the license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation.

(2) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age at the time of arrest:

(a) suspend the person's driver license until the person is 21 years of age or for a period of one year, whichever is longer, if the person is convicted for the first time of a violation under Section 41-6a-502 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years of age at the time of arrest:

(a) suspend the person's driver license until the person is 21 years of age if the person is convicted for the first time of a violation under Section 41-6a-502;

(b) deny the person's application for a license or learner's permit until the person is 21 years of age if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years of age if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years of age if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (9).

(5) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(7) A court that reported a conviction of a violation of Section 41-6a-502 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) ~~[to the Driver License Division]~~.

(9) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving

126 privilege for a violation of Section 41-6a-502.

127 (b) If the court suspends or revokes the person's license under this Subsection (9), the
128 court shall prepare and send to the Driver License Division an order to suspend or revoke that
129 person's driving privileges for a specified period of time.

130 (10) (a) The court shall notify the Driver License Division if a person fails to:

131 (i) complete all court ordered:

132 (A) screening;

133 (B) assessment;

134 (C) educational series;

135 (D) substance abuse treatment; and

136 (E) hours of work in a compensatory-service work program; or

137 (ii) pay all fines and fees, including fees for restitution and treatment costs.

138 (b) Upon receiving the notification described in Subsection (10)(a), the division shall
139 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

140 (11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the
141 Driver License Division may shorten the suspension period imposed under Subsection (1)
142 before completion of the suspension period if the person is participating in or has successfully
143 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

144 (b) If the court shortens a person's license suspension period in accordance with the
145 requirements of this Subsection (11), the court shall forward ~~[to the Driver License Division]~~
146 the order shortening the person's suspension period to the Driver License Division in a manner
147 specified by the division.

148 (c) The court shall notify the Driver License Division, in a manner specified by the
149 Driver License Division, if a person fails to complete all requirements of a 24-7 sobriety
150 program.

151 (d) ~~(i) (A)~~ Upon receiving the notification described in Subsection (11)(c), for a first
152 offense, the division shall suspend the person's driving privilege ~~[in accordance with~~
153 ~~Subsections 53-3-221(2) and (3).]~~ for a period of 120 days from the date of notice.

154 (B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be
155 subtracted from the 120-day suspension period for which a driving privilege was previously
156 suspended under this section or Section 53-3-223, if the previous suspension was based on the

157 same occurrence upon which the conviction under Section 41-6a-502 is based.

158 (ii) (A) Upon receiving the notification described in Subsection (11)(c), for a second or
159 subsequent offense, the division shall revoke the person's driving privilege for a period of two
160 years from the date of notice.

161 (B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be
162 subtracted from the two-year revocation period for which a driving privilege was previously
163 revoked under this section or Section 53-3-223, if the previous revocation was based on the
164 same occurrence upon which the conviction under Section 41-6a-502 is based.

165 Section 2. Section **41-6a-515.5** is amended to read:

166 **41-6a-515.5. Sobriety program for DUI.**

167 (1) As used in this section:

168 (a) "24-7 sobriety program" means a 24 hours a day, seven days a week sobriety and
169 drug monitoring program that:

170 (i) requires an individual to abstain from alcohol or drugs for a period of time;

171 (ii) requires an individual to submit to random drug testing; and

172 (iii) requires the individual to be subject to testing to determine the presence of
173 alcohol:

174 (A) twice a day at a central location where timely sanctions may be applied;

175 (B) by continuous remote sensing or transdermal alcohol monitoring by means of an
176 electronic monitoring device that allows timely sanctions to be applied; or

177 (C) by an alternate method that is approved by the National Highway Traffic Safety
178 Administration.

179 (b) (i) "Testing" means a procedure for determining the presence and level of alcohol
180 or a drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration.

181 (ii) "Testing" includes any combination of the use of:

182 (A) remote and in-person breath testing;

183 (B) drug patch testing;

184 (C) urinalysis testing;

185 (D) saliva testing;

186 (E) continuous remote sensing;

187 (F) transdermal alcohol monitoring; or

(G) alternate body fluids approved for testing by the commissioner of the department.

~~[(2)-(a) The department shall establish and administer a 24-7 sobriety program as a pilot program.]~~

~~[(b)]~~ (2) The department ~~[shall establish one pilot]~~ may establish a 24-7 sobriety program with a law enforcement agency that is able to meet the 24-7 sobriety program qualifications and requirements under this section.

(3) (a) The 24-7 sobriety program shall include use of multiple testing methodologies for the presence of alcohol or drugs that:

(i) best facilitates the ability to apply timely sanctions for noncompliance;

(ii) is available at an affordable cost; and

(iii) provides for positive, behavioral reinforcement for program compliance.

(b) The commissioner shall consider the following factors to determine which testing methodologies are best suited for each participant:

(i) whether a device is available;

(ii) whether the participant is capable of paying the fees and costs associated with each testing methodology;

(iii) travel requirements based on each testing methodology and the participant's circumstances;

(iv) the substance or substances for which testing will be required; and

(v) other factors the commissioner considers relevant.

(4) (a) The 24-7 sobriety program shall be supported by evidence of effectiveness and satisfy at least two of the following categories:

(i) the program is included in the federal registry of evidence-based programs and practices;

(ii) the program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome; or

(iii) the program has been documented as effective by informed experts and other sources.

(b) If a law enforcement agency participates in a 24-7 sobriety program, the department shall assist in the creation and administration of the program in the manner provided in this section.

(c) A 24-7 sobriety program shall have at least one testing location and two daily testing times approximately 12 hours apart.

(d) A person who is ordered by a judge to participate in the 24-7 sobriety program for a first conviction as defined in Subsection 41-6a-501(2) shall be required to participate in a 24-7 sobriety program for at least 30 days.

~~[(d)]~~ (e) If a person who is ordered by a judge to participate in the 24-7 sobriety program has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based, the person shall be required to participate in a 24-7 sobriety program for at least one year.

(5) (a) If a law enforcement agency participates in a 24-7 sobriety program, the law enforcement agency may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the law enforcement agency pursuant to this section, except that the law enforcement agency's designee may not determine whether an individual is required to participate in the 24-7 sobriety program.

(b) Subject to the requirement in Subsection (4)(c), the law enforcement agency shall establish the testing locations and times for the county.

(6) (a) The commissioner of the department shall establish a data management technology plan for data collection on 24-7 sobriety program participants.

(b) All required data related to participants in the 24-7 sobriety program shall be received into the data management technology plan.

(c) The data collected under this Subsection (6) is owned by the state.

(7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement this section.

(b) The rules under Subsection (7)(a) shall:

(i) provide for the nature and manner of testing and the procedures and apparatus to be used for testing;

(ii) establish reasonable participation and testing fees for the program, including the collection of fees to pay the cost of installation, monitoring, and deactivation of any testing device;

(iii) require and provide for the approval of a 24-7 sobriety program data management

technology plan that shall be used by the department and participating law enforcement agencies to manage testing, data access, fees and fee payments, and any required reports; and

(iv) establish a model sanctioning schedule for program noncompliance[~~;~~ and].

~~[(v) establish a process for piloting alternate components of the 24-7 sobriety program.]~~

Section 3. Section **41-6a-517** is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) (a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(b) Subsection (2)(a) does not apply to a person that has 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused;

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under

both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) [~~to the Driver License Division~~].

(13) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division in a

374 manner specified by the division the order shortening the person's suspension period.

375 (c) The court shall notify the Driver License Division, in a manner specified by the
376 division, if a person fails to complete all requirements of a 24-7 sobriety program.

377 ~~[(d) Upon receiving the notification described in Subsection (15)(c), the division shall~~
378 ~~suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).]~~

379 (d) (i) (A) Upon receiving the notification described in Subsection (15)(c), for a first
380 offense, the division shall suspend the person's driving privilege for a period of 120 days from
381 the date of notice.

382 (B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted
383 from the 120-day suspension period for which a driving privilege was suspended under this
384 section or under section 53-3-223, if the previous suspension was based on the same
385 occurrence upon which the conviction under this section is based.

386 (ii) (A) Upon receiving the notification described in Subsection (15)(c), for a second or
387 subsequent offense, the division shall revoke the person's driving privilege for a period of two
388 years from the date of notice.

389 (B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted
390 from the two-year revocation period for which a driving privilege was previously revoked
391 under this section or under Section 53-3-223, if the previous revocation was based on the same
392 occurrence upon which the conviction under this section is based.

393 Section 4. Section **53-3-220** is amended to read:

394 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
395 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
396 **Limited driving privileges.**

397 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
398 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
399 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
400 receiving a record of the person's conviction for:

401 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or
402 automobile homicide under Section 76-5-207 or 76-5-207.5;

403 (ii) driving or being in actual physical control of a motor vehicle while under the
404 influence of alcohol, any drug, or combination of them to a degree that renders the person

incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2;

(xvii) custodial interference, under:

(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless the court provides the division with an order of suspension for a shorter period of time;

(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(xviii) refusal of a chemical test under Subsection 41-6a-520(7).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of one of the following offenses while the person was an operator of a motor vehicle:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(iii) Notwithstanding the provisions in this Subsection (1)(c), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under this Subsection (1)(c) if the reporting court notifies the Driver License Division in a manner specified by the division that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iv) If a person's driving privilege is reinstated under Subsection (1)(c)(iii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(v) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(vi) Upon receiving the notification described in Subsection (1)(c)(v), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under this Subsection (1)(c).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior

conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in

529 which the person was involved as a driver; or

530 (d) a report of an accident in which the person was involved as a driver.

531 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
532 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
533 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
534 or revocation originally imposed under Section 53-3-221.

535 (4) (a) The division may extend to a person the limited privilege of driving a motor
536 vehicle to and from the person's place of employment or within other specified limits on
537 recommendation of the judge in any case where a person is convicted of any of the offenses
538 referred to in Subsections (1) and (2) except:

539 (i) automobile homicide under Subsection (1)(a)(i);

540 (ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and
541 (1)(c); and

542 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
543 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
544 41-6a-517, a local ordinance which complies with the requirements of Subsection
545 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person
546 was charged with violating as a result of a plea bargain after having been originally charged
547 with violating one or more of these sections or ordinances, unless:

548 (A) the person has had the period of the first denial, suspension, revocation, or
549 disqualification extended for a period of at least three years;

550 (B) the division receives written verification from the person's primary care physician
551 that:

552 (I) to the physician's knowledge the person has not used any narcotic drug or other
553 controlled substance except as prescribed by a licensed medical practitioner within the last
554 three years; and

555 (II) the physician is not aware of any physical, emotional, or mental impairment that
556 would affect the person's ability to operate a motor vehicle safely; and

557 (C) for a period of one year prior to the date of the request for a limited driving
558 privilege:

559 (I) the person has not been convicted of a violation of any motor vehicle law in which

the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 5. Section **53-3-223** is amended to read:

53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards

591 under Section 41-6a-520.

592 (b) In this section, a reference to Section 41-6a-502 includes any similar local
593 ordinance adopted in compliance with Subsection 41-6a-510(1).

594 (2) The peace officer shall advise a person prior to the person's submission to a
595 chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall,
596 and the existence of a blood alcohol content sufficient to render the person incapable of safely
597 driving a motor vehicle may, result in suspension or revocation of the person's license to drive
598 a motor vehicle.

599 (3) If the person submits to a chemical test and the test results indicate a blood or
600 breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer
601 makes a determination, based on reasonable grounds, that the person is otherwise in violation
602 of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of
603 arrest, give notice of the division's intention to suspend the person's license to drive a motor
604 vehicle.

605 (4) When a peace officer gives notice on behalf of the division, the peace officer shall
606 supply to the driver, in a manner specified by the division, basic information regarding how to
607 obtain a prompt hearing before the division.

608 (5) As a matter of procedure, a peace officer shall send to the division within 10
609 calendar days after the day on which notice is provided:

610 (a) a copy of the citation issued for the offense;

611 (b) a signed report in a manner specified by the division indicating the chemical test
612 results, if any; and

613 (c) any other basis for the peace officer's determination that the person has violated
614 Section 41-6a-502 or 41-6a-517.

615 (6) (a) Upon request in a manner specified by the division, the division shall grant to
616 the person an opportunity to be heard within 29 days after the date of arrest. The request to be
617 heard shall be made within 10 calendar days of the day on which notice is provided under
618 Subsection (5).

619 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the
620 division in:

621 (A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517;

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years of age or older at the time of arrest, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

(B) two years beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years of age at the time of arrest:

(A) suspend the person's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the 45th day after the date of arrest for a first suspension; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer,

beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the person's application for a license or learner's permit:

(I) for a period of six months beginning on the 45th day after the date of the arrest for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 45th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If a person's license is reinstated under this Subsection (7)(b), the person is required to pay the license reinstatement fees under Subsections 53-3-105[(24)](26) and [(25)](27).

(iv) The driver license reinstatements authorized under this Subsection (7)(b) only

684 apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

685 (8) (a) The division shall assess against a person, in addition to any fee imposed under
686 Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover
687 administrative costs, which shall be paid before the person's driving privilege is reinstated.
688 This fee shall be cancelled if the person obtains an unappealed division hearing or court
689 decision that the suspension was not proper.

690 (b) A person whose license has been suspended by the division under this section
691 following an administrative hearing may file a petition within 30 days after the suspension for a
692 hearing on the matter which, if held, is governed by Section 53-3-224.

693 (9) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall
694 reinstate a person's license before completion of the suspension period imposed under
695 Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the
696 defendant is participating in or has successfully completed a 24-7 sobriety program as defined
697 in Section 41-6a-515.5.

698 (b) If a person's license is reinstated under Subsection (9)(a), the person is required to
699 pay the license reinstatement fees under Subsections 53-3-105[(24)](26) and [(25)] (27).